

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

IRON MOUNTAIN INCORPORATED;
IRON MOUNTAIN INFORMATION
MANAGEMENT, INC.; C. RICHARD
REESE; JOHN F. KENNY, JR.; GARRY
B. WATZKE; LARRY L. VARN; and
CHARLES G. MOORE,

Plaintiffs,

v.

THOMAS CARR,

Defendants.

and

THOMAS CARR,

Counterclaim-Plaintiff,

v.

IRON MOUNTAIN INCORPORATED;
IRON MOUNTAIN INFORMATION
MANAGEMENT, INC.; C. RICHARD
REESE; JOHN F. KENNY, JR.; GARRY
B. WATZKE; LARRY L. VARN; and
CHARLES G. MOORE,

Counterclaim-Defendants.

Civil Action No. 05 10890 RCL

COUNTERCLAIM-DEFENDANT JOHN F. KENNY, JR.'S
MOTION TO DISMISS FIRST AMENDED COUNTERCLAIMS

Pursuant to Fed. R. Civ. P. 12(b)(6), Counterclaim-Defendant John F. Kenny, Jr.

(“Kenny”) respectfully moves to dismiss the First Amended Counterclaims (the

“Counterclaims”) of defendant and counterclaim-plaintiff Thomas Carr, for failure to state any

claim upon which any relief could possibly be granted. The grounds for this motion are more fully set forth in Kenny's accompanying memorandum of law.¹

WHEREFORE, Counterclaim-Defendant John F. Kenny, Jr. respectfully requests that this Court enter an order dismissing the Counterclaims against him with prejudice.

Respectfully submitted,

JOHN F. KENNY, JR.

By his attorneys,

May 31, 2005

/s/ Samual A. Miller
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¹ Kenny has also joined the motion of all of the Plaintiffs seeking to dismiss Count II of the Counterclaims. See Counterclaim-Defendants' Memorandum of Law in Support of Motion to Dismiss Counterclaim-Plaintiff's Fraudulent Misrepresentation Claim.

CERTIFICATE OF SERVICE

I hereby certify that I have on this 31st day of May, 2005, served on counsel listed below, by first class mail (unless counsel receives electronic service by the Court), a true and correct copy of the foregoing **Counterclaim-Defendant John F. Kenny, Jr.'s Motion to Dismiss First Amended Counterclaims**.

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/s/ Samuel A. Miller
Samual A. Miller

LOCAL RULE 7.1 CERTIFICATION

On May 31, 2005, I conferred by electronic mail with counsel for the Defendant and counsel for the Defendant did not assent to the relief requested in this motion.

/s/ Samuel A. Miller
Samual A. Miller